

Appeal Letter

Case no 19-cv-720 BBC

Tony Wheeler

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Universal Recycling Technologies

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This letter is in response to the dismissal of case no 19-cv-720 bbc.

I feel the preceding judge erred, and somehow misinterpreted on some of the key points involved in this case. I feel like defendant was allowed to be unethical and at times flat out dishonest.

I would like to start by addressing the "6 week Dispositive motion extension" during the discover phase. These extensions are rarely granted, if at all. The defendant told the judge that I had stated I was a RVC P (Halfway house) resident, but I hadn't gave her a release form from them for my medical records. Defense never requested the document until she wrote the judge accusing me of "stalling" her out basically, because she didn't have it. In Pro-se, so I am ignorant to certain legal protocol, due to this issue, I was 100% cooperative with the defenses council. She purposefully never requested it. There is no document request with either set of the defendant's interrogatories. She never requests it.

She emailed me asking for an extension on the grounds of, that I had made accusations, but did not give her a release from RVEP, I declined, and explained why in a return email. She then wrote the judge stating I had not gave her important intel, and she needed an extension, and the judge granted the motion. Every piece of paper used in "discovery" on my end was filed with the judge and I have the receipt. No where in the "record" did the defendant ask me for the release. I was not able to respond due to the fact I am homeless, I have a mailing address. This motion was 12 days old when I got it, it was close to holiday so mail was struggling, Covid had a hold of the public. Due to the normal process of things, and me thinking the judge would object, I failed to respond, motion granted. My next issue at hand is the admissability of Mr Salach's declaration. He gives a 3rd party explanation of the incident between me and Mr Negron, that's "hear say" by definition. He basically is speaking for Mr Negron.

all things I have read and studied says it was inadmissible, he was not there, and made up his own recount 10 minutes and 19 seconds in on the video, go as follows: I lean towards him cuffing my ear, he's saying something, at around 10:23+ he scoops up some debris, and his shovel goes up the end towards the ceiling, and falls back down. This happens because he removes his left hand and the shovel hits the side of the dumpster. Mr. Salach's recast, and mine, totally contradict each other, this is because he lied, on the video, he is nowhere around, yet the ~~only~~ only other account of the footage is from him, 3rd party, not there, making a statement about someone else's motives and behavior, "hear say" inadmissible. Some of my behaviors towards the end of my employment with URT, are something to be considered, some have even deemed me not in control of my behavior at times, if not properly cared for I've attached a couple documents, Exhibits A2-A3. I suffer from; anxiety, depression, and insomnia. This

has been diagnosed by Dr Aziz of Mercy Health, and Angella Purnell a counselor at R/CP. These attachments are other peoples re-counts of my behaviors, when I read them, I cringe slightly. At the time of my termination I had been unmedicated for my insomnia for about two weeks. The dose was off and when Dr Aziz switched it something happened in the Walgreens computer, and I could not pickup my script. Insomnia, combined with my type of "social anxiety" leaves me, in my own words "Emotionally unstable". The reason this is a mitigating factor is, I developed my condition while employed at URT, I sustained a mental injury while in their care. I had a nervous break down in early July, this was documented at work, I called their Employee Assistance Program, from Mr Salachs office, I was a mess. I have been struggling with control issues every since. I've attached some documents, answer to interrogatories from the defense; Ex B1, is an explanation of my day to day battle with mental illness. Next I would like to address the courts view of retaliatory behavior. I've attached



answer to defendant's Interrogatories #7, Ex C 1

so you get a definition, and a picture of mine. I discuss the 1st problem on forward. I explain how if I complained, and I did, I would be "disciplined" by Jose, or his fiancé Lori. This is how and why I was lead to complain to Mr Salach. At first I thought I had accomplished something, but I was wrong, that's how I found out, if you offend 1 of them, the other will "retalliate" for their mate, and after complaining, and getting nothing except a harder day of work, I happened to see Mr Call, and decided to talk to him. It was on the 7/19/18, I was bringing in my Dr's excuse, and he put it in the computer for me, another employee told me to try to talk to Mr Call before I put in any kind of paperwork, he told me "they" wouldn't like me if I did, so I should try to avoid it. When I seen Mr Call, I explained to him I was having an on going situation with my lead, his fiancé, Mr Salach. He asked what Mr Salach had been doing, I told him I felt like he could not control Mr Salach.

Since this was a serious meeting with a serious topic, Mr Call had asked if I was ok with Loyd Majreed sitting in as witness, since there would not be a written account I agreed. This leads me to error in the facts of this case. In Judge Crabb letter page 2 paragraph, the last line the judge states that Mr Call told me to talk to my supervisor about the issue. That's incorrect, I have stated on the record numerous times, that Mr Call was supposed to talk to my boss, it was one of the toppings of our meeting, I reference this in a voice mail recording I submitted to the judge. This is a key factor and a mitigating circumstance, in me and Mr Call rapport, and the understanding that Mr Call took this problem out of my hands, but in the weeks to come, Mr Call would be M.I.A., from the 26<sup>th</sup> of July to the 13 August, I never got any response or reply, I was told by Mr Salach and Ms Bauer he was not at work, even though his "New" "wife" Cheryl Silverado was there till around 4 or later. Ms Bauer mentions me telling her I didn't

trust or believe them, everyone who <sup>(See Ex</sup> needed to be at our meeting, a meeting <sub>EX D1</sub> between; Me, Jose, Randy, and Mr Salech. This meeting never happened, and then Mr Call just appeared, at work, in the office with Mr Salech, with a write-up for leaving my station for too long, and for performance issues. I declined to sign, I had been here since January, with no issues with my work, now I was getting a write-up for leaving a potentially violent situation. The judge did not feel like Mr Call exhibited any retaliatory behavior, In Mr Call's declaration, he swears under oath he knew nothing of my issue until the morning after. The voice mail proved he was lying, and ~~in~~ in a big way, judge says I had no reason to not trust him, Mr Call left me thinking I had an advocate, that was not the case, a week later when things escalated, he left me "high and dry", he, Mr Call chose sides, it was obvious to me, "The New Guy" that the "Senior employee" Jose had a support group, and I had none, Mr Call was my last hope, and once he showed



me where he stood, I knew I would need outside help, because there wasn't any at my place of employment. I've enclosed a copy of the voice mail left for Mr Call on a flash drive (USB)

I clearly reference the toppings at hand and how Mr Call left the situation to be handled, he would take care of it. Next, I would like to address the "Investigation". The only reason the investigation lasted as long as it did, was because the defendants were hoping Jeremy or Brandon would contradict what I was saying. I clearly state, in writing, and on 2 different voice mails, "No body seen it, except maybe the camera. Mr. Salach showed me the footage, him and MS Dauer were explaining to me something called "Point of Indication", Mr Salach said that if Mr Noyron was in fear, and seen me as a threat, then it might be just cause, he said "Well, he didn't hit you". The defendants would have you believe there was no kind of back and forth, there was. I have attached a document; Ex E1 this is to show 2 things; 1) A. I did not trust them, and a list of why, 2) B. explains a little more why I refused to sign

their paper work. Me and the main person involved; Mr. Magron, never once sat down with a mediator, that was the meeting I was waiting on, and Ms. Bauer is referencing, the one Mr. Call pretended not to be at work from the 26<sup>th</sup> of July, until August 13<sup>th</sup>, with a write-up, that was unsavory behavior in my mind. Mr. Call says on the day of my termination, he felt threatened, but in his email to Ms. Bauer, he is anything but, at one point he admits stepping toward me in an effort to "hurry me". I ask this question; in that situation, how do you hurry up another grown man, he verbally warned me, and when he tried to get physical, I stepped in front of the camera, hands up, that's the opposite of being aggressive. Lloyd Majeed can corroborate this. I asked in my motion, how come the defense was allowed to omit certain things and people, particularly Lloyd Majeed. Council said it was not the defense's job to produce witnesses for me, yeah, but are they supposed to harbor and hide them. I attached Ex F1, just another written account of the defendant's putting words in my mouth.

I would like to request a reconsideration and perhaps revisit the Summary Judgment if needed. All the evidence brought into scope, is all on the record, and just needs to be properly introduced. I pray my cry doesn't fall on deaf ears. Justice is blind so she sees us as equals, and her ears are open for the truth, and that's all I am asking for; a chance to be heard.

Thank you

*Tomy Adels*